Is there a “right to abortion” in the Constitution?

On November 30, 2011, the Illinois Supreme Court agreed to hear a pair of appeals arising out of the ACLU’s latest challenge of the legality of the Parental Notice of Abortion Act of 1995—an Act whose enforcement the ACLU has prevented through successive court challenges ever since it became a law in 1995.

In 1995, the Illinois General Assembly passed the Parental Notice of Abortion Act, which required a parent or guardian to be notified 48 hours before a child under 18 has an abortion.

In 1996, a federal district court permanently enjoined the Act due to lack of a confidential appeal and bypass rule, which the Illinois Supreme Court refused to issue.

In 2006, after the Thomas More Society filed a petition to issue the rule, the Illinois Supreme Court finally adopted the required appeal and bypass rule. But the parental notice law still has not gone into effect due to ongoing litigation in federal and state courts by the ACLU which argues it violates the Illinois Constitution of 1970, even though the law was upheld under the U.S. Constitution by the 7th Circuit Court of Appeals two years ago.

In 2011, the Illinois Appellate Court reversed and remanded the decision of the Cook County Circuit Court that had upheld the legality of the Illinois Parental Notice of Abortion Act on state constitutional grounds. The Appellate Court did not resolve the ultimate legal issues raised in the case, even though those issues were fully briefed in both the trial and appellate courts.

In 2012, Thomas More Society’s special counsel, Paul Linton, argued in support of the Parental Notice of Abortion Act before the Illinois Supreme Court challenging the Illinois Attorney General’s concession that there is a right to abortion in the Constitution. The Illinois Supreme Court will issue a final ruling on the legality of the law between now and mid-summer.

The Thomas More Society also represents over twenty state’s attorneys as “friends of the court” in support of the parental notice law in the Appellate Court and the Illinois Supreme Court.

Since 1995, over 50,000 abortions have been performed on Illinois minors.

Illinois is the only Midwestern state without a parental notification and/or a parental consent law in effect. This allows thousands of abortions to be performed in Illinois on non-resident minors, who are brought to Illinois to escape and evade their own state’s parental notice or consent laws.